

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**RICHMAN, BERENBAUM & )  
ASSOCIATES, L.L.C.; CHARLES I. )  
RICHMAN; BLAKE L. BERENBAUM; )  
and ELLIS COOK, )**

**Plaintiffs**

**vs.**

**CAROLINA CASUALTY INSURANCE )  
COMPANY; REUBEN KLUGMAN, )  
INDIVIDUALLY AND AS TRUSTEE OF )  
THE REUBEN KLUGMAN TRUST; and )  
JEFFREY L. RUDNICK; )**

**Defendants**

**No. 02-CV-3195**

**NOTICE OF REMOVAL**

TO: United States District Court  
For the Eastern District of Pennsylvania

PLEASEPLEASE TAKE NOTICE that on this date, Defendant Carolina CPLEASE TAKE NOT  
Company,Company, aCompany, a Corporation (hereinafter "Carolina"), by its undersigned counsel, herebyComp  
casecase pursuant to 28 U.S.C. §1446 case pursuant to 28 U.S.C. §1446 tcase pursuant to 28 U.S.C. §1446 to th  
Pennsylvania. In support thereof, Carolina states as follows:

1. PlaintiffsPlaintiffs Richman, Berenbaum & Associates, P.C., Charles I. RiPlaintiffs Richman, B  
Berenbaum,Berenbaum, and Ellis CookBerenbaum, and Ellis Cook (hereinafter Richman, Berenbaum ) filed thi  
againstagainst Carolina on or about April 17, 2002. Carolina received aagainst Carolina on or about April 17, 2002  
April 23, 2002, but has not been served with the Complaint. Therefore, removal is timely.

2. InIn their Complaint, PlaintiffsIn their Complaint, Plaintiffs seek a declaration that Carolina has a du  
indemnifyindemnify them for a legal malpractice claim made againstindemnify them for a legal malpractice claim  
and as Trustee of the Reuben Klugman Trust.

3. Plaintiffs are citizens of Pennsylvania, and practice law through Richman, Berenbaum, a Pennsylvania corporation.

4. Defendant Carolina is incorporated under the laws of Florida, and its principal place of business is in Florida.

5. Plaintiffs have also named Jeffrey Rudnick ( Rudnick firm of Richman, Berenbaum. Rudnick, as a former attorney with the coverage under the Carolina policy, should be realigned as a party plaintiff.

[illegible]

7. The primary issue in this case is whether the primary issue in this case is whether Berenbaum for this suit. Rudnick, who also seeks defense and indemnity from Carolina fBerenbaum Klugman claim, was joined in this action by Plaintiffs as a necessary party.<sup>1</sup>

8. Carolina asserts that it has no obligation to Berenbaum, Berenbaum, Berenbaum, or any other party, for the Klugman claim. Carolina's interests are not superior to those of Richman, Berenbaum, and Rudnick.

9. Accordingly, as all these parties seek coverage from Ca  
the interests of Richman, Berenbaum and Klugman are aligned for purposes of the interests of Richman,  
action. Therefore, the parties should be realigned to reflect the interests of Richman, Berenbaum and Klugman.  
*e.g., Truck Ins. Exchange v. Ashland Oil, Inc.*, 951 F.2d 787

<sup>1</sup>Plaintiffs assert that Rudnick is a necessary party to this litigation. Although this issue is not before the court, the court nonetheless has no objection to this joinder, nor does Rudnick's inclusion have been properly aligned.



Richman, Berenbaum for Klugman's claim. *Id.* at 483-84. Klugman is therefore fraudulent and should be disregarded for purposes of this suit, and should be

15. Additionally, even if Klugman was not fraudulent, he is a nominal or formal party to this suit, because Klugman has a duty to defend. *See Spring-Ford*, 158 F.Supp.2d at 484, n. 4., 158 F.Supp.2d at 484, n. 4. Carolina submits that the court should disregard a nominal or formal party and rest judgment on the parties to the controversy. *Id.*, citing *Bumberger v. Ins. Co.* (3<sup>rd</sup> Cir. 1991).

16 The amount in controversy exceeds \$75,000.

17. The present lawsuit is therefore removable from state court to the United States pursuant to 28 U.S.C. §1332(a)(1) and §1441(a).

18. True copies of all process, pleadings, and attachments are attached hereto as Exhibit A.

WHEREFORE, defendant, Carolina Casualty Insurance Company respectfully requests that this Honorable Court enter an Order allowing Removal, and for the Court to enter an Order that may deem equitable and just.

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context of this declaratory action. *Id.*

PLEASEPLEASE TAKE FURTHER NOTICE that Defendant Carolina, upon filing thisPLEASE TAKE  
RemovaRemovalRemoval in the Office of the Clerk of the United States District Court for the Eastern District  
PePennsylvania,Pennsylvania, has also caused to be filed copies of this Notice with the Clerk of the Pennsy  
CommonCommon Pleas, PhiladelphiaCommon Pleas, Philadelphia County, PCommon Pleas, Philadelphia Co  
1446(d).

Respectfully submitted,

SPECTOR GADON & ROSEN, P.C.

By:

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